

Message Text

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PAGE 01 EC BRU 05400 271231Z
ACTION EB-07

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COME-00 FRB-03 INR-07 NSAE-00 EPG-02 SP-02 STR-04
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C O N F I D E N T I A L EC BRUSSELS 05400

PASS STR ELECTRONICALLY FOR POMERANZ

EO. 11652: XGDS-1
TAGS: ETRD, MTN, OECD, EEC
SUBJECT: GOVERNMENT PROCUREMENT, EC INTERNAL DIRECTIVE COVERAGE

REF: (A) 76 EC BRUSSELS 12631, (B) EC BRUSSELS 1314

1. MISSION OFFICER MET WITH NEW HEAD OF EC TELECOMMUNICATIONS
POLICY VON MOLTKE WHO WILL ALSO BE RESPONSIBLE FOR INTERNAL
DIRECTIVE ON PUBLIC SUPPLY CONTRACTS (SEE REF. A).

2. VON MOLTKE OUTLINED PROBLEMS AND TIMETABLE FOR INCLUSION
OF PRESENTLY EXCLUDED SECTORS. IN GENERAL HE AGREED WITH
US VIEW THAT ORIGINAL LEGAL ARGUMENTS FOR EXCLUSION COULD
BE FINESSED IF THE WILL TO PUSH AHEAD EXISTS, BUT LEFT THE
CLEAR IMPRESSION THAT PROBLEMS OF TECHNICAL HARMONIZATION,
OPPOSITION FROM INDUSTRY, AND THE NEED FOR MAINTAINING
RECIPROCAL BENEFITS AMONG MEMBER STATES WOULD SLOW THE
PROCESS.

3. DATA PROCESSING: THE DIRECTIVE PROVIDES THAT THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 EC BRU 05400 271231Z

DATA PROCESSING SECTOR SHOULD BECOME SUBJECT TO THE
PROVISIONS OF THE DIRECTIVE IN 1981. VON MOLTKE SAID
THERE IS NO REASON TO BELIEVE THIS WILL NOT BE THE CASE.

4. TELECOMMUNICATIONS: THE COMMISSION RECEIVED A
CLEAR MANDATE LAST DECEMBER FOR INCLUDING THIS SECTOR.
THE COUNCIL HAS ASKED IT TO PRODUCE A TIMETABLE BY END

OF 1978 FOR INCLUSION OF THIS SECTOR, AND THE COMMISSION IS PRESENTLY ENGAGED IN A FACT-FINDING OPERATION ON PROCEDURES IN THIS INDUSTRY. THE BRITISH AND THE ITALIANS APPEAR TO BE THE ONLY POLITICAL HOULDOUTS. THEIR TELECOMMUNICATION INDUSTRIES ARE EXCEPTIONALLY PROTECTIONIST AND POLITICALLY INFLUENTIAL. HARMONIZATION IS A MAJOR PROBLEM AND THE EC IS RELYING ON THE EUROPEAN POSTAL AND TELECOMMUNICATIONS CONFERENCE (CEPT) TO PRODUCE COMMON STANDARDS IN FOUR YEARS. VON MOLTKE THOUGHT 1982 WAS A REASONABLE DATE TO EXPECT INCLUSION, WITH ENTRY IN FORCE EIGHTEEN MONTHS AFTER ADOPTION BY THE COUNCIL.

5. ELECTRICAL POWER: THIS SECTOR IS INEXTRICABLY LINKED TO THE QUESTION OF NUCLEAR POLICY AND HENCE A POLITICAL MORE THAN A TECHNICAL OR EVEN LEGAL PROBLEM. THE COMMISSION IS ANXIOUS TO HALT WHAT IT SEES AS THE INCREASING CARTELIZATION OF THE MARKET BUT MEMBER STATES ARE NOT PRIMARILY INTERESTED IN A COMPETITIVE MARKET.

6. WATER SUPPLY: VON MOLTKE SAW NO EXTRAORDINARY PROBLEMS HERE BEYOND THE LEGAL QUESTION AND THE NEED FOR RECIPROCITY. BUT HE ADMITTED HE HAD NOT YET HAD TIME TO FAMILIARIZE HIMSELF WITH THIS SECTOR.

7. TRANSPORTATION: THE RAILROAD/LOCOMOTIVE INDUSTRY HAS MANY SMALL NON-COMPETITIVE FIRMS KEPT IN BUSINESS BY A FEW GOVERNMENT ORDERS PER YEAR. THIS INDUSTRY WILL REQUIRE SUBSTANTIAL RESTRUCTURING (READ TRIMMING)
CONFIDENTIAL

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PAGE 03 EC BRU 05400 271231Z

BEFORE MEMBER STATES WOULD BE WILLING TO OPEN IT TO COMPETITION. HARMONIZATION IS ALSO A PROBLEM: SOME INTERNATIONAL TRAINS ARE REQUIRED TO CARRY TWO OR MORE LOCOMOTIVE TO ACCOMMODATE ELECTRIC CURRENT DIFFERENCES BETWEEN COUNTRIES.

8. THE COMMISSION WILL CONCENTRATE ON FIRST WORKING OUT A FORMULA FOR THE INCLUSION OF TELECOMMUNICATION SINCE IT CONSIDERES THIS A PRIORITY AREA IN THE COMPLETION OF A COMMON MARKET AND SINCE IT ALREADY HAS A COUNCIL MANDATE TO PROCEED. ONCE THIS IS DONE OFFICIALS HOPE BUT CANNOT BE CONFIDENT, THAT IT WILL WORK ALSO FOR THE WATER, POWER GENERATION AND TRANSPORTATION SECTORS. ONE INFLUENTIAL INDUSTRY SOURCE HAS TOLD MISSION THAT THESE SECTORS WOULD NOT BE INCORPORATED DIRECTLY INTO THE EXISTING DIRECTIVE BUT WOULD BE SUBJECT TO A SEPARATE DIRECTIVE WITH LESS STRICT PROCEDURES.

9. COMMENT: THE EFFORT OF THE EC TO INCLUDE THESE

SECTORS IN THEIR INTERNAL DIRECTIVE IS CLOSELY LINKED TO THE SUCCESSFUL COMPLETION OF AN INTERNATIONAL CODE IN THE OECD OR MTN. THE EC DOES NOT CONTEMPLATE INCLUSION OF THESE SECTORS IN ANY INTERNATIONAL CODE AS LONG AS THEY REMAIN EXCLUDED FROM THE INTERNAL DIRECTIVE. IN SHORT, THE INTERNAL DIRECTIVE REPRESENTS THE UPPER LIMIT OF WHAT THE EC WILL AGREE TO WITH THIRD COUNTRIES.

10. EVEN ALLOWING FOR VON MOLTKE'S RELATIVE UNFAMILIARITY WITH THESE QUESTIONS, THERE IS A DIFFERENCE BETWEEN HIS TIMETABLE ESTIMATES AND THOSE RECEIVED EARLIER FROM THE COMMISSION (REF. B). MOREOVER, THERE ARE ADMINISTRATIVE DELAYS TO CONTEND WITH. TO BEGIN WITH, DUE TO THE REORGANIZATION OF THE INDUSTRY DIRECTORATE GENERAL, THE COMMISSION HAS LOST ALMOST SIX MONTHS ON ITS TIMETABLE FOR TELECOMMUNICATIONS. CONFIDENTIAL

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PAGE 04 EC BRU 05400 271231Z

SECONDLY, THE CEPT IS NOT EVEN ORGANIZED TO DO THE KIND OF CLOSE COORDINATION WHICH IT NEEDS FOR THE HARMONIZATION EXERCISE. SINCE THE ELECTRICAL POWER, WATER SUPPLY AND TRANSPORTATION SECTORS HAVE BEEN PUT IN LINE BEHIND TELECOMMUNICATIONS, THE LEAST THAT CAN BE SAID IS THAT THE TIMETABLE IS NOT FIRM.

11. IT IS IMPORTANT TO REMEMBER ALSO, THAT ONCE THE PROPOSALS ARE DRAFTED BY THE COMMISSION, THERE IS USUALLY A MINIMUM DELAY OF TWO YEARS BEFORE THEY BECOME EFFECTIVE...SIX MONTHS WHILE THE COUNCIL WAITS FOR OPINIONS FROM THE EUROPEAN PARLIAMENT AND THE ECONOMIC AND SOCIAL COMMITTEE AND ANOTHER EIGHTEEN MONTHS BEFORE MEMBER STATES ARE REQUIRED TO IMPLEMENT THE DIRECTIVE AFTER IT HAS BEEN ADOPTED BY THE COUNCIL. THE COMMUNITY WOULD NOT BE FREE TO NEGOTIATE THESE SECTORS IN AN INTERNATIONAL CODE BEFORE ADOPTION BY THE COUNCIL.

12. WE BELIEVE THAT A MORE REALISTIC TIMETABLE WOULD SEE PUBLIC SUPPLY RULES ENTER INTO FORCE FOR TELECOMMUNICATIONS BY 1984 AND THE POWER GENERATION, WATER SUPPLY AND TRANSPORTATION SECTOR BY ABOUT 1986. HINTON

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